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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,466	07/07/2003	Fumiyuki Isami	10209.512	7619

7590 04/03/2006

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EXAMINER	
SAYALA, CHHAYA D	

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/614,466	ISAMI, FUMIYUKI	
	Examiner	Art Unit	
	C. SAYALA	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 January 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,5 and 7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3, 5, 7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 3, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the publication from www.nonialoha.com (May 2003) in view of HU 43310, Moran et al. (US Patent 4459149), Kume (US Patent 5648264) and Dougherty (Field Guide to On-Farm Composting, 4/1999, pages 1-3, 26-29) and further in view of Olson et al. (US Patent 3821963) and Mihara (US Patent 3770198).

The publication of May 2003 teaches the use of the pulp or sludge left over from juice extraction of Morinda Citrifolia as fertilizer. It does not teach leaves, seeds, stems or roots. The dilution is not taught either. The HU abstract teaches using leaves, seed wastes for the process of composting and using the processed product for soil conditioning. Moran et al. teach that vegetable material such as sticks, leaves, seeds, etc. all of cellulosic nature, and that decompose during generation of compost (col. 3, lines 55-60). Kume teaches at col. 1, lines 20-25, cellulosic materials such as chaff, leaves, bark and seed waste, all decomposable cellulosic substances, that ferment and decompose producing compost. The Field Guide publication teaches that vegetable wastes, fruit residues, green foliage, leaves, etc. are all raw materials that are used for fertilizer or compost making. Therefore, it would have been obvious to process or

compost the leaves, stems, roots, seeds and fruit to obtain beneficial agricultural products. Since the publication teaches the leftover pulp, then it must inherently contain some juice rendering the limitation Yaeyama Aoki juice obvious.

Olson et al. and Mihara both teach that adding liquid fertilizers to water, mixing to dilute them in a predetermined proportion (col. 1, lines upto 22 in '198 and col. 1, lines upto 30 in '963) and then applying them, was the known and established technique in the art. To determine amounts required would necessarily be based on the nutrient profile of the soil, and the type of fertilizer used. Such techniques would have been obvious to one skilled in the art at the time the invention was made.

Response to Arguments

Applicant's arguments filed 1/26/06 have been fully considered but they are not persuasive.

Applicant has criticized the secondary references for teaching composted materials containing leaves and seeds, and further combining this with the pulp or slurry containing juice of Yaeyama Aoki of the primary reference. At the last paragraph on page 7, applicant states that the specification as presently filed, discloses that the growth and sugar content increased as well as preventing disease from spreading and increasing freshness upon harvesting, when the fertilizer is applied. Applicant also states the secondary references listed on page 7, do not teach a combination of juice with leaves and seeds of Yaeyama Aoki as a fertilizer.

These arguments are not convincing for the following reasons. Applicant's claims recite "processed leaves" and "processed seeds", wherein "processed is not defined in the specification and is broad enough to include composting processes. Also, pulp or sludge inherently includes juice and renders this limitation obvious. Note that the fertilizer described in the specification is an "extract" of a mixture of fruit, seed and leaves (page 5). Furthermore, the unexpected results obtained are described for the application for Yaeyama Aoki juice only, not the fertilizer product as claimed, which includes the juice of all three, fruit, leaves and seeds. It is well established that the objective evidence of nonobviousness must be commensurate in scope with the claims. See In re Hyson, 172 USPQ 399, In re Tiffin, 171 USPQ 294, In re Lindner, 173 USPQ 356.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA whose telephone number is 571-272-1405.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C. SAYALA
Primary Examiner
Group 1700.